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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/622,939

07/18/2003

Oleg Soloviev

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08/22/2006

WOODS FULLER SHULTZ & SMITH P.C.

ATTN: JEFFREY A. PROEHL

P.O. BOX 5027

SIOUX FALLS, SD 57117

EXAMINER

MATHEW, FENN C

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding:

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/622,939	SOLOVIEV, OLEG	
	<b>Examiner</b>	<b>Art Unit</b>	
	Fenn C. Mathew	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8,9 and 11 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 5-7,10 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07/18/03</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 5-7 are objected to because of the following informalities: In claim 5, the word "complimentary" should presumably read --complementary--. Appropriate correction is required.
2. Claims 10 and 12 objected to under 37 CFR 1.75 as being a substantial duplicate of claims 9 and 11. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). In the instant case, presumably, claim 10 should depend from claim 9, and claim 12 should depend from claim 11. Absent the dependency, there is no material difference between categorizing the wrist assembly and 'second wrist assembly'.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Prince (U.S. 4,384,369). Referring to claim 1, Prince teaches a portable (easily transported)

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exercise system, comprising a main housing assembly (12) having at least one bladder member (32) being adapted to be filled with water to provide weight (col. 3, lines 20-25), and a coupling assembly (74, 76) operationally coupled to the main housing assembly, the coupling assembly adapted to selectively secure the main housing assembly to the torso of a user. Referring to claim 2, Prince teaches a plurality of bladder members, each bladder member being selectively fillable with water, each bladder member having an aperture (inherently in order to fill the bag) extending through the perimeter wall, each bladder having a cap portion (40), each bladder member defining a unique interior space. Referring to claim 3, Prince teaches in col. 3, lines 40-46 and fig. 1, a plurality of pockets, each of which house bladders members operationally coupled to one another. Since Prince teaches more than four pockets, the Prince device comprises at least a first, second, third and fourth bladder, with each bladder including being selectively fillable with water, each bladder member having an aperture (inherently in order to fill the bag) extending through the perimeter wall for facilitating access to the interior space, each bladder having a cap portion (40). Referring to claim 4, as broadly claimed, Prince teaches the device comprising a pair of pocket members operationally coupled to a back surface of the main housing assembly, each of the pocket members being capable of receiving a foot of a user, the pocket members capable of facilitating using the system as a weight for performing leg lifts.

5. Claims 1, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Drulias et al. (U.S. 5,179,942). Referring to claim 1, as broadly claimed, Drulias discloses in col. 4, lines 45-60, a portable exercising system comprising a main housing

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assembly having at least one bladder member (32), the bladder member adapted for being filled with water to provide weight (note that although Drulias does not explicitly state that the bladder is water filled, the phrase 'adapted to' requires that the bladder be capable of being filled with water, and Drulias does teach that the bladder is filled with liquid), and a coupling assembly (14, 16) operationally coupled to the main housing assembly for selectively securing the main housing assembly to a torso of a user.

Referring to claim 5, Drulias discloses a coupling assembly further comprising a first strap member extending from a first side of the main housing assembly, the first strap member having a first distal end, the first strap member having a first closure means (14) positioned on the first distal end, and a second strap member extending from a second side of the main housing assembly, the second strap member having a second distal end, the second strap member having a second closure means (16) positioned on the second distal end, the first closure means and the second closure means being complementary. Referring to claim 6, Drulias teaches in col. 5, lines 10-25 that the first and second closure means comprise complementary portions of hook and loop fastener.

#### ***Allowable Subject Matter***

6. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record fails to teach the main housing assembly, a bladder that can be filled by water, a pair of straps extending from the main

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housing assembly, and further comprising a pair of bores extending through proximal ends of the strap, and capable of receiving the hands of a user.

7. Claims 8-9 and 11 are allowed. Claims 10 and 12 would be allowable if dependency was changed to claims 9 and 11 respectively as discussed above.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Keer (U.S. 5,349,706) and Grim (U.S. 5,632,723) teach examples of braces with lumbar support bladders inserted in pockets. Riley, Jr. (U.S. 5,667,466) teaches weighted ankle and wrist members.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Fenn C. Mathew', with a long horizontal flourish extending to the right.

Fenn C. Mathew  
August 10, 2006